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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,080	10/31/2003	Barbara Isenberg	03727-P0048C	1847

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EXAMINER	
MILLER, BENA B	
ART UNIT	**PAPER NUMBER**
3725	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/699,080	ISENBERG, BARBARA	
	Examiner	Art Unit	
	Bena Miller	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-23 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Bena B-Miller

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1-4, 6, 7, 21 and 22 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Philippi in view of Doran and Unalp et al.

Philippi teaches in the figures most of the elements in the claimed invention, including a modified surface (fig.1) and at least one ferrous portion permanently embedded completely inside the doll (fig.8). However, Philippi fails to teach a plush doll, a hole through an ear and at least one ferrous portion permanently embedded completely inside the interior. Doran et al teach a doll stage construction wherein the doll is moved by magnet 17. Unalp et al teaches a doll having a hole within the ear of the doll. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a doll as taught by Doran for the toy of Philippi for the purpose of simulating a puppet show. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a hole as taught by Unalp et al in the toy of Philippi for the purpose adding interest to the doll's appearance. It is well known in the prior art that dolls are made of plush. It would have been obvious to one having ordinary skill in the art to make the toy of Philippi plush for the purpose of preventing injury to a child.

Claims 2, 3, 5 and 6 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Unalp et al in view of Woolington.

Unalp et al teaches in the figures most of the elements of the claimed invention, except for a plush teddy bear doll. Woolington teaches a plush teddy bear talking doll. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plush as taught by Woolington for the toy of Unalp et al for the purpose preventing injury to a child.

Claims 8-13 and 15-23 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Doran et al in view of Woolington.

Doran et al teaches in the figures most of the elements of the claimed invention, except for a plush teddy bear doll. Woolington teaches a plush teddy bear talking doll. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plush as taught by Woolington for the toy of Unalp et al for the purpose preventing injury to a child.

Regarding claims 18-20, the examiner considers the stage of Doran as set forth above meets the limitation of a box and the examiner takes the position that the stage box of Philippi is capable of storing the figure, manipulator and the at least one accessory.

Allowable Subject Matter

Claim 14 is finally objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 11/21/05 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the [1]references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as noted above, Doran teaches a doll used with a stage. Therefore, it would have been obvious to having ordinary skill in the art to use a doll with the device of Phillipi. In reference to Applicant's remarks that Phillipi does not disclose or suggest ferrous portion permanently embedded completely within an interior part, Applicant's attention is directed above.

Further, Applicant's contends that Unalp fails to disclose the aperture passing completely through the ear of the doll. It should be noted that it well known that an earring passes "completely" through an ear for attachment. Further, the Examiner has taken the broadest reasonable interpretation of the word, aperture—"hole" and therefore, takes the position that the earring of Unalp passed completely through the aperture of the ear of the doll.

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[1] Merriam Webster's Collegiate Dictionary, Tenth Edition.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Woolington teaches a doll made of plush. The Examiner takes the position that it would have been obvious one of ordinary skill in the art to make the doll body of Doran plush and the combination of such, would not be make the device of Doran non-operable.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bena Miller
Primary Examiner
Art Unit 3725

Bbm
February 28, 2006